

REMARKS

In view of the foregoing, reconsideration and allowance of this application are requested.

Claims 1-25, 27-32 and 34-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Busche et al. (U.S. Published Appln. 2003/0055707, hereinafter "Busche") in view of Hines et al. (U.S. Patent 6,396,413, hereinafter "Hines").

Busche discloses the use of the Global Positioning System (GPS) or enhanced GPS (EGPS) and receivers disposed on shopping baskets to track the paths of customers within a retail environment for the purpose of ascertaining the favorable positioning of products within the retail environment (see Abstract and paragraph [0009]). As discussed in paragraph [0063] of Busche, products reside at specific locations on shelves within the retail establishment and the locations of the placement of products are determined and stored in a database. GPS may be utilized to identify the locations of the placement of the products. Local EPGS transmitters 331-338, such as shown in Figure 3, may also be employed to enhance or replace the satellite signals so that the locations of the products may be identified. As discussed in paragraph [0065], each shopping basket is fitted with a GPS receiver that records customer movement throughout the store. Alternatively, only preferred customers may be given baskets that include such receivers. When a customer is at a checkout counter, the data stored in the GPS receiver, representing the path of the customer, is transmitted to a computer. The locations of the products within the retail space are associated with the paths of the customers to form a set of spatial relationships (paragraph [0009]).

The Examiner acknowledges that "Busche does not specifically disclose that the receiver being [sic] adapted to be carried on the person." The Examiner relies upon Hines for teaching

the use of “a personal monitor system comprising a receiver 20 which is carried on a person for recording the locations and time stamp data ...” (Office Action, page 2).

Hines pertains to a personal alarm monitor system intended for use within a correctional facility or in another emergency situation whereby a person to be tracked carries a portable device which receives signals from RFID transmitters placed at particular locations, such as at opposite ends of a hallway, doorways and stairways, within the facility (see Abstract, column 1, lines 13-23; column 3, lines 26-58; Figure 1). Each RFID transmitter has a unique identification and the portable device carried by a person receives and stores the unique identification, along with a time stamp, when in close proximity to the transmitter. The stored information forms a record of the general travel pattern of the person within the monitored premises (column 3, line 59 to column 4, line 9).

Improper Combination of References

Applicants resubmit and incorporate herein all previously submitted arguments that it is improper to combine the teachings of Busche with the teachings of Hines to reject the claims. For purposes of brevity, however, such arguments are not repeated herein.

The Combination of References Still Does Not Disclose the Claimed Invention

Even *arguendo* that it is proper to combine the references as proposed by the examiner, the resultant combination thereof still would not produce the claimed invention. To reject the claims, the Examiner modified the teachings in Busche by having a receiver be carried on a person, as taught by Hines. Thus, the combination proposed by the Examiner is for a system that utilizes GPS or enhanced GPS (EGPS).

Claims 1 and 3 recite that the wireless receiver is “operative to receive respective ones of the location signals only when in a vicinity of each of the locations.” Thus, a wireless receiver

does not receive a location signal when it is not in the vicinity of a transmitter location. Busche, however, utilizes GPS or EGPS, by providing multiple transmitters throughout the store (see Figure 3) and, thus, multiple location signals are received simultaneously by a receiver at vicinities beyond those transmitter locations. Hence, signals from transmitters are received by the Busche receivers even when such receivers are not in the vicinity of such transmitters. Thus, claims 1 and 3 are patentably distinct and unobvious over the cited art.

Various additional features recited in the claims are neither disclosed nor obvious in light of the cited art. Claims 7, 10 and 14 call for gathering data in the portable monitors representing exposure to media data. Claim 21 pertains to acoustic media data. Claims 8 and 11 call for “gathering outdoor advertising data in the portable monitors representing exposure of respective ones of the panelists to outdoor advertising.” Neither Busche nor Hines suggests using receivers for either gathering data representing exposure to media data, including acoustic media data, or exposure to outdoor advertising. The systems disclosed in Busche and Hines clearly work indoors and for specific indoor purposes. Hence, one of ordinary skill in the art would not find it obvious to modify Busche, with or without Hines, in the manner proposed by the Examiner. Still further, in the office action, the Examiner asserts that “it would have been obvious to ... have the location transmitter positioned at any appropriate locations that are being monitored, including the media data and outdoor advertising as claimed.” (Office Action, page 4). This proposal by the Examiner, however, is contrary to the teachings of Busche, which explicitly utilizes either GPS or EGPS for position tracking, wherein transmitters are spaced apart from one another and without regard to a particular location to be tracked. While Hines discloses positioning a transmitter at a particular location for a specific tracking purpose, the Examiner clearly has established that Hines is relied upon solely for its teaching to provide a receiver on a person.

Should the Examiner expand his reliance on Hines, then it is submitted that applicants' previously submitted arguments (that it is improper to combine Busche and Hines) have even greater merit and, thus, should be reread and reconsidered by the Examiner.

Claim 25 calls for, among other things, associating a signal transmitter with a respective product or advertisement, and wherein the wireless receiver receives the transmitted location signal only when in an area in which the product or advertisement can be perceived. In the office action under reply, the examiner does not particularly address this claim and includes it in a general discussion that pertains principally to claim 23 (see office action, page 6). It is submitted that none of the transmitters disclosed in Busche is "associated" with a particular product or advertisement. Further, as mentioned above, multiple signals in Busche are received simultaneously by the receivers in Busche and, thus, the claimed feature that a signal is received only when in an area in which the product or advertisement is neither existent in nor obvious over Busche.

Claims 27 and 34 call for transmitting by the signal transmitters commercial establish data that identifies the commercial establishment data. The Examiner asserts that this is an obvious feature. Given the above discussion that the Examiner's proposed combination utilizes GPS or EGPS, why would it be obvious? Busche is silent in this regard and thus it is necessary for the Examiner to provide a suitable teaching (i.e., reference) to properly reject claims 27 and 34.

Claim 28 calls for, among other things, disposing a signal transmitter in proximity to an entrance of the commercial establishment. While Hines arguably may suggest doing so, Busche does not. Thus, the foregoing discussion that the Examiner is relying principally on the teachings of Busche is applicable also with respect to claim 28.

Claims 31-35 recite features that have been discussed above and are patentably distinct and unobvious over the combination of Busche and Hines for those reasons also discussed above.

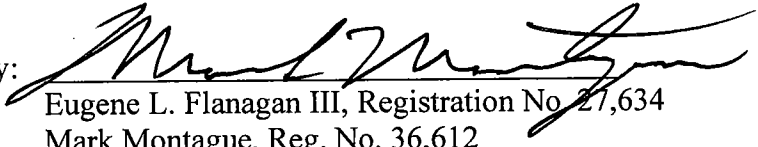
Claims 26 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Busche in view of Hines, and further in view of Duhamel et al. (U.S. Patent 5,541,585, hereinafter "Duhamel"). Claims 26 and 33 recite, among other things, that the signal transmitters do not transmit when the presence of a person is not detected in proximity to a respective transmitter. The Examiner relies upon Duhamel for allegedly disclosing this feature. However, it is submitted that the Examiner's reliance upon Duhamel is improper since one of ordinary skill in the art would not modify any of the transmitters disclosed in Busche in the manner proposed by the Examiner. The EPGS transmitters in Busche must transmit their respective location signals in order for the GPS receivers to properly operate, regardless of whether the presence of a person is or is not detected by the signal transmitter. Hence, claims 26 and 33 are patentably distinct and unobvious over the cited art.

In view of the foregoing, it is requested that the rejection of claims 1-36 be withdrawn.

New claims 37-42 are presented. Support for new claims 37 and 38 is set forth in at least Figures 2, 4 and 8 of the drawings, and at least in paragraph 0070 of the application as filed. Support for new claim 39 is set forth at least in paragraph 0065 and Figure 6 of the drawings. Support for new claim 40 is set forth at least in paragraph 0036. Support for new claim 41 is set forth at least in paragraphs 0059 through 0064. Support for new claim 42 is set forth at least in paragraph 0076. The allowance of new claims 37-42 is solicited.

In view of the foregoing, reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

By: 
Eugene L. Flanagan III, Registration No. 27,634
Mark Montague, Reg. No. 36,612
Attorneys for Applicants
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, NY 10036
212-790-9200